

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE: §  
§  
RAVENEAUX, LTD. § CASE NO. 05-32734-H1-11  
§ (CHAPTER 11)  
DEBTOR. §  
§

**MOTION TO VACATE OR FOR RECONSIDERATION AND  
REQUEST FOR HEARING DATE (Docket #511-514)**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 20 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

THERE WILL BE A HEARING ON THIS MOTION ON FEBRUARY 13, 2006 AT 4:00 P.M. IN COURTROOM 10-B, 515 RUSK, HOUSTON, TEXAS 70002.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Raveneaux, Ltd., Debtor in the above entitled and numbered cause ("Debtor" or "Raveneaux") files this Motion, pursuant to 11 U.S.C. §105, and/or this Court's powers as a court in equity and/or Bankruptcy Rule 9023, for reconsideration of the Orders entered as Docket #511, 512, 513 and 514 disallowing the Debtor's claim objections entered as Docket #493, 494, 495 and 496 ("Claim Objections"), and in support thereof would respectfully show the Court as follows:

**REASONS FOR RECONSIDERATION**

1. This Court dismissed the above-captioned Claim Objections for want of prosecution. The Court's order was entered when counsel failed to appear at a hearing on the morning of January 12, 2006, a hearing set by this Court to consider the Claim Objections and properly noticed by Debtor's counsel and served upon all parties entitled to notice.

2. While certain taxing authorities had filed responses to the Claim Objections affecting them (Docket #493 and 495), no response was filed to the other Claim Objections, and no other party appeared at the hearing to object.

3. The Court was within its rights to dismiss the Claim Objections for want of prosecution because counsel for the Debtor did not appear and the failure to attend was not explained. The local rules so provide.

4. However, the Order denying the claim objection is not final. The Court has discretion and plenary authority to vacate entry of its order. This Court is a court of equity, measuring the burdens and hardships and avoiding undue hardship and needless expense.

5. This Debtor has been fair to its creditors, facilitating access to the courts when informal pleadings were filed, answering questions about objections, and confirming a plan to pay the unsecured creditors in full. The Debtor, upon information and belief, recently paid the taxing authority claims in full for real estate taxes owed when it closed on its refinance loan. Thus, the only issue for the taxing authorities is the values associated with personal property and a small amount owed for penalties and interest.

6. Likewise, no other objected-to creditor appeared at the hearing, though the Debtor provided notice. Accordingly, the Debtor requests a hearing and the opportunity to explain why some claims are the result of miscommunications or mistakes by those creditors.

7. The Debtor's failure to attend the hearing was caused by events outside of the Debtor's own control. The Debtor's counsel shoulders the entire blame for improperly calendaring the hearing internally. However, the Debtor should not be penalized for this error.

8. Rule 59 allows the court to reconsider the entry of an order if facts have been recently discovered that cause the court to take pause. In this case, the Court was unaware of the Counsel's error. Given knowledge of that error, the Court can set aside its order. The Debtor did not intend to abandon the Claim Objections.

9. Rule 60(b) F.R.Civ.P. sets a standard of "excusable neglect" for setting aside non-appealable final orders and judgments, and it is essentially an equitable standard, though restrictive. However, the Debtor submits that the legal standard required to vacate an order that has not become final and non-appealable is even more discretionary and a less restrictive equitable standard. Here, the motion to vacate or reconsider is being made the same day as the error was discovered, before the order is final and non-appealable.

10. The Debtor submits that here, the equities favor vacatur of the orders dismissing the Claim Objections.

WHEREFORE, for the foregoing reasons, the Debtor asks this Court to vacate the Orders entered as Docket # 511, 512, 513, and 514 and re-set a hearing on Debtor's claim objections entered as Docket #493, 494, 495 and 496, and grant all such further relief as is just and proper.

DATED: January 12, 2006.

Respectfully submitted,

WEYKER, KAPLAN, PULASKI & ZUBER, P.C.

By: /s/ Hugh M. Ray, III  
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ATTORNEYS FOR DEBTOR

**CERTIFICATE OF CONFERENCE**

I certify that on January 12, 2006, I conferred with Tara Grundemeyer, counsel for the taxing authorities who appeared at the hearing, and while she does not oppose the relief sought as to the other claimants, she opposes the relief as to the taxing authorities entered by Docket #512 and 513).

/s/ Hugh M. Ray, III  
Hugh M. Ray, III

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing Motion to Reconsider has been served via the ECF system or first class mail postage prepaid on January 12 (or early January 13, 2006), to the parties shown on the Service List attached.

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